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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,156	03/26/2004	Gregory P. Elgan	11398.65.1	8347
22913	7590	12/08/2006		
WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY) 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111			EXAMINER MAUST, TIMOTHY LEWIS	
			ART UNIT 3751	PAPER NUMBER
DATE MAILED: 12/08/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/810,156

Applicant(s)

ELGAN ET AL.

Examiner

Timothy L. Maust

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 39-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 39, 40, 43, 44, 46, 47, 50 and 52-55 is/are rejected.
- 7) ☒ Claim(s) 41, 42, 45, 48, 49, 51, 56 and 57 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 53 is rejected under 35 U.S.C. 102(b) as being anticipated by Mullen et al.

The Mullen et al. reference positions a “collapsible bag” 21 of a “bag assembly” (i.e., bag, tube, valve) within a “chamber” 18 of a “bin” 13, the “bag assembly” further comprising a “fluid line” 35 having a “first end” (unlabeled; Figure 4) fluid coupled with the “bag” 21 and an opposing “second end” (defined at the valve 25); passing a section of the fluid line through a “slot” 37 formed on the bin such that the second end of the fluid line is disposed outside of the chamber, the slot being in communication with the chamber of the bin and extending from a “doorway” 23 formed on a side wall of the bin to a floor of the bin; and mounting a “retention plate” 39 to the bin so that the retention plate covers at least a portion of the slot (see Figures 6a-6d) and (column 3, lines 15-35).

Claims 39, 40, 43, 44, 46, 47, 50 and 52-55 are rejected under 35 U.S.C. 102(b) as being anticipated by Capper.

In regard to claims 39, 43, 46, 47, 50 and 52-55, the Capper reference positions a “collapsible bag” 33 of a “bag assembly” (i.e., bag, tube, valve) within a “chamber” 20 of a “bin” 37 through “door” 23 (see Figure 2), the bag assembly further comprising a “fluid line” or “port” 35 having a “first end” (unlabeled; see Figures 5 and 7) fluid coupled with the “bag” 33 and an opposing “second end” (defined at the end of the line); passing a section of the fluid line through a “slot” or “porthole” (defined by outline 31 in the Figures) formed on the bin such that the second end of the fluid line is disposed outside of the chamber (Figure 6), the slot being in communication with the chamber of the bin and extending from a “doorway” 32 formed on a side wall of the bin to a floor of the bin; and mounting a “retention plate” 34 (Figure 6) to the “floor” 25 of the bin so that the retention plate covers at least a portion of the slot (column 2, line 30 to column 4 line 57).

In regard to claim 40, the “retention plate” 34 is capable of being mounted to the bin prior to the port 35 being positioned within the porthole, since port 35 is plugged into the retention plate 34 (see column 3, lines 10-12).

In regard to claim 44, see column 3, lines 15-17.

***Allowable Subject Matter***

Claims 41, 42, 45, 48, 49, 51, 56 and 57 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments, see papers, filed 9/26/06, with respect to the rejection(s) of claim(s) under Sayers have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Mullen et al. and Capper.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Hoehn, Kastamo et al. and Devlin et al. references pertain to various dispensers having similar structure to that of the Applicant's device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L. Maust whose telephone number is (571) 272-4891. The examiner can normally be reached on Mon. - Thur. 6:30 - 5:00.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Timothy L. Maust  
Primary Examiner  
Art Unit 3751

Tlm  
12/5/06